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year by year, suits have been begun by States and judgments rendered in the Supreme Court which have been complied with, however unwillingly and grudgingly.

What the American people can do, may we not believe others can do? What nine men sitting on Capitol Hill can do, nine men sitting in a tribunal at large can do. Instead of training men in the handling of arms; instead of forming leagues to fall upon and prey upon nations to force them to live up to agreements, when the very agreement depends on the nations' good faith in observing it, the thing to do, I submit, is not to question their good faith, but to offer a premium for keeping it, and to engage in a campaign of systematic instruction in the schools, in public and in private, in season and out of season, for the administration of justice through orderly agencies, established for that purpose, so that, little by little, the reign of law may win over the rule of barbarism.

The CHAIRMAN. Not desiring to referee this contest that was planned for us, we will postpone the discussion until after the next paper.

The next paper is "America and the Future Society of Nations" by Dr. Alvarez of Chile, the Secretary General of the American Institute of International Law.

## AMERICA AND THE FUTURE SOCIETY OF NATIONS

ADDRESS BY ALEJANDRO ALVAREZ,

*Secretary General of the American Institute of International Law*

Since the month of August, 1914, we have been witnessing the ravaging of Europe. Nearly all the states of the Old World are engaged in a war of political and economic rivalry. Powerless to put an end to the conflict, the nations of America have deemed it their duty not to increase the numbers of the belligerents and to safeguard their rights as neutrals. Apart from this attitude of a governmental or diplomatic character and the condemnation by continental public opinion of acts of hostility contrary to the sentiments of humanity and civilization, the intellectual element, particularly the American Institute of International Law, has felt that our continent has still another duty to perform, more delicate and more formidable: to prepare the way for the future reconstruction of the society of nations and of the law that should govern it, for the origin of the present catastrophe has shown the need of such a reconstruction.

The systematic violation of the neutral rights of the United States, as well as the attacks on human life at sea committed by one of the belliger-

ents, has forced this republic to take part in the war; but in doing so it has given the conflict new objectives, which will mark a memorable epoch in the history of civilization, and especially in the history of international law.

In entering the war the United States does not propose merely to secure satisfaction for its violated rights, nor does it aim to obtain compensation or territorial extension or an indemnity of any kind; neither does it propose to uphold or to sit in judgment on the political interests or the national claims or the economic rivalries of European countries. What it does seek is, as President Wilson has said with such eloquence and simplicity in his famous message of April 2d last, backed by the Congress and the public opinion of his country, to serve the general interests of mankind by endeavoring to bring it about that in future the society of nations shall be governed by the principles of law and justice, not by force and arbitrariness. The following passage especially should be noted: "We are but one of the champions of the rights of mankind. We shall be satisfied when those rights have been made as secure as faith and the freedom of nations can make them." The objects aimed at, therefore, surpass the reasons alleged for participating in the conflict. Thus, the war whose origin presented a petty and distressing character of rivalries and rancor, has now assumed, through the action of the United States, a lofty aim of civilization.

This attitude of the great republic comes at the opportune moment. If the need of reforms in the society of nations was not felt at the outbreak of the war, the public opinion of the world has during the past three years grown weary of this wanton destruction and demands that it be brought to an end, not by a simple treaty of peace, but by important reforms in international and national society, so that similar cataclysms may be impossible in future. The chancellors and statesmen of the two groups of belligerent countries in Europe have also repeatedly shown a desire and are strongly disposed to coöperate in an effort to insure peace in the future; and the Russian revolution shows that even countries where liberal ideas are at their lowest ebb are to-day demanding a state freed from autocracy and entirely under democratic control.

The United States is therefore echoing and emphasizing a universal social aspiration. This easily explains the profound sympathy and the ready support which this attitude has met with not only in the belligerent countries of the Allies, who have expressly accepted the objects set forth by President Wilson (King George's message to President Wilson, under date of April 6), but also in neutral countries, especially in those of Latin

America. When the war is over, these objects may align the whole world with the United States, and in this sense, although belligerent, this country may continue to be the center of peace negotiations.

Thus, what the American Institute of International Law has heretofore held to be a moral duty for our hemisphere, has now become for this great republic a sacred military duty, as sacred as was the duty of emancipation more than a century ago.

This is not the first time in contemporary history that the United States has made itself the champion of generous and disinterested aims; or rather, of causes which, though involving originally merely personal interests, are at the same time bound up with or seek the great interests of civilization. In 1898, when the United States declared war on Spain, it did so in order to bring into being a new republic among the nations of the world. President McKinley's message to Congress of April 11th of that year states this clearly; and the resolution of Congress authorizing the President to declare war on Spain says, in its 4th resolution:

That the United States hereby disclaims any disposition or intention to exercise sovereignty, jurisdiction, or control over said Island except for the pacification thereof, and asserts its determination, when that is accomplished, to leave the government and control of the Island to its people.

The United States has kept its word, and its two interventions in Cuba were for the purpose of restoring public order; it evacuated that country as soon as order was restored.

The nations of Latin America, in their turn, have engaged in formidable wars for purely humane and fraternal purposes, such as the wars undertaken for the liberation of certain states of this continent at the time of the emancipation. In 1865 Chile went to war with Spain merely in order to preserve the independence of Peru.

Therefore, the states of Latin America cannot now view unmoved the war undertaken by the United States for a new society of nations; the objects sought and the gratitude which these states owe to this great republic for the defense of their independence and liberty, with the Monroe Doctrine, added to the peril of the triumph of German imperialism and armed force, counsel them to take another attitude than that of simple spectators of the catastrophe which is occurring before their eyes.

The present cataclysm may be compared with the French Revolution, as to its objective of social reform. In both there is an old order whose destruction is sought, and a new order, as yet unseen, to be established after passing through an intermediate period of uncertainty. Between these

two upheavals there are marked differences which it may be useful to point out. The revolution in France was first a reactionary movement, and then a movement for the destruction of a vitiated system of state organization, of which the whole world had grown weary. The reaction begun, it assumed ever increasing proportions in the desire for reform. From France it spread throughout Europe with the wars of the Revolution, and resulted in the reorganization of the state and of international society, which has prevailed from that time to the present day. The cataclysm which we are witnessing was at the outset a contest between rival European states; it has become a struggle for the modification of the society of nations and of the political organization of states. In other words, the French Revolution was in the first place a movement for the organization of a new state, and in the second place for the formation of a new international society; to-day we are seeking, first, a new international organization, and, secondly, a modification of the organization of the state.

A second difference is that in the French Revolution what was sought was merely a transformation of society in conformity with the ideas of the political philosophy which flourished in those days. It was possible to bring about this modification of the political organization of the state, but only after a period of uncertainty and groping, which lasted more than a quarter of a century, since the countries were not prepared for so sudden a transition to an order of things so different from that which they had known. To-day, if we know how to profit by experience, the desired reform may perhaps be effected within a few years from the outbreak of the war.

A third difference is that the Revolution and the wars that followed it ended in a treaty of peace, which was the work of diplomats exclusively, who took into account principally the interests of their own countries and gave little attention to the general interest, and no attention at all to the sentiments or will of the people, especially in constituting new states. The present war was at the outset exclusively the work of diplomats and governments, who during the course of the nineteenth century had created an artificial incompatibility of interests between the countries; and now everybody feels that the conflict must be solved with the participation of the people, that is to say, in the assistance and consultation of all the social factors which represent the vital forces of the nations.

What must especially be borne in mind to-day, in view of the facts of history, is that it is possible to accomplish great social reforms when they are demanded by universal opinion, and that great wars have been waged to this end. They make possible reforms which in normal or peaceful

times would require centuries for their accomplishment. These cataclysms are like great earthquakes or a vast conflagration, which destroy a city and make it easy to reconstruct and embellish it. Society has made much progress as the result of wars that have had lofty aims: the French Revolution, the emancipation of America, the European Revolution of 1848, etc.' In order that the reform sought to-day may be accomplished as rapidly as possible and without disturbances, it must be based not on pure philosophical speculations alone, as at the time of the French Revolution, but on a more positive basis. It must be based upon the experience of the New and the Old World in political life during the past century and the aspirations of mankind. The political doctrines and institutions of America offer us at the present time a much more valuable contribution, which does not appear at first sight.

What are those reforms sought at the present time by public opinion, especially by American public opinion? What are the best means to ascertain and achieve them? And what are the lessons that we can draw from experience? It is necessary to throw light on the most urgent reforms demanded by universal opinion, taking them from the declarations of the most representative spokesmen of that opinion: the declarations of the statesmen of the belligerent countries, the desiderata expressed by great industrial, scientific or social bodies, such as labor organizations, professional unions, parliaments, universities, scientific associations, etc. Some of these have already frankly expressed their opinions on the international organization of the future. American opinion is reflected, in the first place, in President Wilson's message of April 2d, and again in the declarations adopted by the American Institute of International Law, as well as in the definitive projects which it will elaborate at its next session at Montevideo and which are now being studied by the various national societies in the twenty-one republics of our continent. Above all, these ideas coincide, or at any rate they are not incompatible, and may we not hope that this war, which is now ravaging the world, will ultimately bring us the untold benefits of a happier and more fraternal humanity.

The indispensable condition for stability in international society is that it shall in future rest upon well-constructed states, for if their organization is defective, the flaws will necessarily show themselves in their external relations.

According to the experience of the last century and the new requirements of social organization, in order that the state may have a solid internal structure,

(a) It must be constituted on the so-called basis of nationality; that is to say, it must be formed, not of different nationalities, but of the same nationality, although individuals of different races or countries may freely dwell in its territory;

(b) Its organization must be democratic — that is to say, its government must really be in the hands of the people — not autocratic or oligarchic. The French Revolution ended absolute monarchical power, and the present great war will probably end autocracy. In his message of April 2d, President Wilson laid great stress on the democratic organization of states as one of the best means of assuring peace in future. He said, "A steadfast concert for peace can never be maintained except by a partnership of democratic nations. . . . Only free peoples can hold their purpose and their honor steady to a common end and prefer the interests of mankind to any narrow interest of their own." And, as a matter of fact, when all states have a truly democratic organization, there will not be, as there are to-day, artificial or cabinet rivalries, or alliances for aggressive purposes, or secret policies which produce no other results than mutual distrust, nor will the people be launched in a war which they have not accepted as inevitable;

(c) The interlocking of interests and the growth of interdependence between individuals demand that an end be put to the individualistic system which was established after the French Revolution and which prevailed during the nineteenth century. Individualism had already been attacked at the close of the century, and the present cataclysm has made it clear that it must be absolutely abolished. As a matter of fact, when the war began, the countries taking part in it felt the need of coördinating under government control all the factors of agricultural production and a large part of their manufactures, and also of regulating the distribution and expenditure of wealth. In other words, individualism and competition in production have suddenly been replaced by coöperation for the benefit of all. This new order of things, far from being abandoned at the end of the war, should, on the contrary, be given final form. Nothing short of a fatal individualistic obsession can induce us to react against a system of coöperation which has saved all the countries from a formidable crisis.

(d) The education of democracy is a difficult problem for the future. The universities must unite and, if possible, centralize their efforts, so that education may become as uniform as possible in all countries, thereby avoiding that chaos of opinions and divergence of views even in fundamental matters, which are the cause of so many disturbances in the political life of states. The Second Pan American Scientific Congress, which

met at Washington in 1916, adopted, on the proposal of the delegations of Chile, Argentina, and Brazil, a project for a Pan American University Union, which is now being studied by the Pan American Union — a project which, when it is carried into effect, will render incalculable services to our continent.

In the education of the democracy of the future we must abandon the individualistic point of view, basing this education upon solidarity, that is to say, upon a profound sentiment not only of the rights of man, but also of his subordination to the general interests of the state and of civilization. The narrow chauvinistic patriotism, which has prevailed up to the present time, must be corrected and tempered by the conception of social solidarity, which has been considered utopian, but the present war has shown its great importance. The duties toward humanity must henceforth be as well known and respected as the civil duties of citizens are to-day.

As regards the new organization of states, it should be noted that the states of our continent more nearly meet these conditions than those of Europe, a fact that may be easily explained, given their rather recent origin and consequently their lack of a historical past to complicate their internal conditions. And this, among other reasons, is why in American international society there are fewer rivalries and a greater solidarity in their mutual intercourse than among the nations of Europe.

With states constituted in accordance with the demands of present-day universal opinion, that is to say, essentially democratic, the national and the international society will rest upon solid foundations. Without a basis of this kind, any organization will be short-lived or unstable.

But a wise organization of the state will not suffice. International society must itself rest upon a solid basis, which will develop and consolidate the interdependence which civilization has created between states and which will suppress, or at least attenuate, the causes of disputes and provide adequate means of settling them when they arise.

To this end, we must avoid certain projects, seductive in appearance but very difficult of practical realization, which have more drawbacks than advantages. In this category must be placed schemes for universal federation and for the perpetual guarantee of the territorial integrity of all states. Another seductive project, which has a great number of supporters, is that of a universal League to Enforce Peace. At the banquet given on May 28, 1916, by the League to Enforce Peace, President Wilson declared himself to be in favor of such an association, an idea which has not failed to meet with a certain amount of opposition throughout the country. The governments of the belligerent countries, especially



of England and Germany, have formally declared themselves in favor of a League of this kind.

The American Institute of International Law, for its part, cannot accept this League, because, in its opinion, such an association would in reality be nothing more than a repetition of the attempt made in 1815 by the great Powers to enforce peace in Europe, which only resulted in their intervention in the internal and international affairs of the weaker states.

The Institute believes that the results aimed at by the League to Enforce Peace can be attained by other means of a more practical and less dangerous character.

What should these means be? Experience has shown how precarious and dangerous were the foundations upon which the great Powers endeavored to establish peace in Europe during the nineteenth century, — the balance of political power, alliances, and armed peace, — and the solid foundations upon which rests the society of American states, — free coöperation between all countries, as well as the rapprochement of their political and economic interests. The same lessons of history and of contemporary life show us of how great value in the reconstruction of international society is the work in which all the states of the world were engaged for the purpose of developing their common interests, but by correcting and completing this work in conformity with the experience and unanimous sentiments which have come to light in the course of the present war.

In order to strengthen the bonds of friendship, it is necessary to establish institutions in which the general interests of mankind and of each separate continent can be considered and discussed. There is a great difference in this respect between Europe and America. In the Old World the great Powers have assumed the right of watching over the general interests of mankind, the other states having no effective initiative in this respect. In America two institutions have been created, the Pan American Union and the Pan American Conferences, composed of representatives of all the states of the continent, whose mission is to watch over the common interests of the continent. In practice these institutions have produced beneficent results, which must become still greater in future. The institutions to be created must be of a universal character, that is to say, in which all the states of the world are represented, for matters of universal interest; and of a continental character for questions of interest to each continent, every continent having problems and situations of interest to itself alone. In this way the states of Europe will be prevented from interfering in American affairs and there will not be attempts to force the states of our continent to interfere in purely European matters.

States must pursue the internationalization of their administrative departments by the centralization of "international unions" and the creation of others. They must also form an economic and commercial union, for the purpose of coördinating everything that relates to international commerce and the freedom of land and sea routes, and of centralizing information with regard to agricultural and industrial production. The services which the International Agricultural Institute has already rendered show the advantages of this kind of institution.

The American Institute of International Law adopted at its second session, which was held at Havana last January, ten recommendations known as the "Recommendations of Havana Concerning International Organization," which seek to bring about through the coöperation of all the states a better guarantee of peace in future. We wish to call special attention here to two of these recommendations: the creation of a council or committee of conciliation for disputes of a political nature, and of a truly international court of justice for disputes of a legal character. If the former institution is a new idea, the latter is a project of long-standing, which harks back to the Second Hague Conference, but made more complete at the present time. In America especially there is a desire that the court be modeled after the Supreme Court of the United States and the Central American International Court, both of them prototypes of an international court. It shall also be the mission of this court to interpret and develop the law in case of omissions in its provisions. This is merely an extension of the privilege granted to the Prize Court by the Twelfth Hague Convention. The American Institute of International Law has referred also for study to the various national societies two projects, one with regard to the creation of a committee of conciliation of a continental character for political matters, and the other concerning a court of arbitral justice.

Likewise, for the purpose of strengthening the bonds of friendship and of preventing disputes between states, it is necessary, as the Hague Conferences have already proclaimed, to extend the domain of law, in order that as little room as possible may be left for politics and arbitrariness.

The need of creating an international legislative organ to formulate the rules which shall govern the relations between states is strongly felt, and it is generally agreed that the best course to follow to this end is to organize the Hague Peace Conferences in such a way as to make them periodic, in order that international law may be gradually and progressively codified. The Institute favors this idea in its Recommendations of Havana.

We now come to a very delicate and complex question: the reconstruction of the law which should govern the society of nations. Should this law be reconstituted, or merely revised in certain of its provisions, so that it will be henceforth practically what it has been in the past? The American Institute of International Law has, ever since its foundation, devoted itself entirely to the study of this question, and has reached the conclusion that it cannot be answered *a priori*, but that the course already pointed out should be followed: the experience of the past century and the aspirations of mankind. Taking these facts into consideration, the Institute is of the opinion that hereafter there must be important changes in international law itself, in its fundamental principles, in their underlying bases, rather than a mere revision.

Let me outline what the Institute has done or is now doing in this respect, full and detailed information being contained in the various publications which the Institute has thus far issued.

In the first place, the Institute deemed it necessary to proclaim and clearly define the fundamental rights and duties of states, about which, in spite of their importance, people have not heretofore been in complete agreement.

The American Institute of International Law adopted at its first session, which took place in Washington in 1916, a "Declaration of the Rights and Duties of Nations." This Declaration proclaims five fundamental rights: independence, liberty, equality, free development, and the state's exclusive sovereignty over its own territory. The importance of such a declaration consists not in the rights proclaimed, but in the limitations that these rights must receive: the general interest and solidarity that bind the countries constituting the society of nations. These limitations will give to such rights a very different character from the character they have had until now, especially with regard to the rights or powers that the states can exercise in virtue of such fundamental rights thus limited. The American Institute of International Law is now studying this important question, particularly the right of necessity, the right of intervention, and the right of diplomatic claims, which, in the opinion of some, are to be derived from the right of self-preservation.

Furthermore, international law must be Americanized, that is to say, American doctrines and points of view with respect to certain matters must be incorporated in it, which doctrines are distinguished by their liberal and democratic character, especially those relating to freedom of commerce, to diplomatic claims, etc.

Moreover, the defects and shortcomings which the experience of the past century has shown to exist in international law must be corrected,

especially in the matter of the sources of legal rules and of the principles to be followed in settling questions where no rules exist; the observance of legal rules must be insured by means of effective sanctions; and there must be a peaceful means of satisfying certain social aspirations or needs, means which do not exist to-day. The Secretary-General of the American Institute has submitted to the consideration of the national societies projects aiming to supply some of these deficiencies.

A branch of international law which especially should be modified is that relating to war and neutrality. Without having any illusions with regard to the absolute abolition of war, we must endeavor not only to make it more humane, which was the dominant object of the Hague Conferences, but to see to it that its laws are really observed.

The conception of neutrality must be changed radically. In future it must consist, not in burdens imposed upon neutrals for the benefit of belligerents, as it is to-day, but in the sanction of and respect for the rights of neutrals, particularly their commercial intercourse, which should not be violated or restricted by a state of war between other countries. From the beginning of its independence the United States has made itself the champion of the extension of the rights of neutrals; and President Wilson, in his various messages relating to the war, has brilliantly upheld these same rights in what he calls "the freedom of the seas." Secretary of State Lansing requested the American Institute of International Law at its first session to draw up a project favoring the rights of neutrals and freeing them from the burdens which international law has laid upon them. The Secretary General of the Institute prepared a project and presented it at the second session held in Havana, which is radical in the objects it proposes, for not only does it remove all restrictions on the rights of neutrals, but it also contemplates adequate means to insure respect for those rights. This project makes no attempt to favor the interests of either of the two groups of belligerents, as might have been supposed; it is therefore neither pro-Ally nor pro-Teutonic; it is American, that is to say, it reflects the aspirations and interests of our continent in this matter. On the other hand, the project is not intended for immediate practical application; it is a plan to be carried into effect after the war is over. It is possible that public opinion, weary of the present calamity, will then be ready to accept the project which has been submitted to the Institute.

Finally, in order that the reform in international law may be really effective, it must be made complete by two other modifications which are closely connected with it: a new conception of diplomacy and a new conception of the study of international law. As regards the former, secret

treaties must hereafter be abolished and public opinion must control the discussion and direction of international affairs. As regards the study of international law, it must not favor national chauvinism, but be guided by the fine maxim, "Above all nations is humanity." The divergent theories of different schools in this branch of legal science must be harmonized; some of these divergences are irreducible, but there are others of them that can be smoothed away by a good uniform method of study. In America we must, by means of comparison, bring more closely together the doctrines of the Anglo-Saxon school represented by the United States and those of the continental school represented by Latin America, in order to discover the reason for these differences, and if it is impossible to blend them, at least to draw them together in their efforts, so as to form an American continental school which, by the liberality of its doctrines will surely exert a great influence on the future development of international law.

The CHAIRMAN. According to the program, there is now opportunity for discussion.

Mr. C. D. PUGSLEY. I agree with Dr. Scott that force of itself and by itself does not settle disputes, either between individuals or between nations, except as to which is physically the stronger; but I cannot subscribe to the proposition that either the principles of international or municipal law are self-executing. Dr. Scott has stated that a nation will be actuated by self-interest as to whether it adheres to a treaty or not, and, in the same way, I believe it will be actuated by a self-interest, whether it conforms to a decision of a court of arbitral justice or to a council of conciliation or to a court of arbitration. I feel that when the principles of law are once determined by an impartial tribunal, there must be some sanction to give effect to that law, and that it cannot be, of necessity, self-executing. I feel to-day that we are living in a time of national consciousness, with national organizations, and until the time arrives when we come to think as Dr. Scott has intimated, which will come by a process of education, by inculcating into succeeding generations the idea of observing to a certain extent the interests of sovereignties in the preservation of order and the welfare of the world — until that period has arrived, we have got to have the beginnings only of some plan of world organization by which reference shall be made to a court, and that some forum such as has been proposed, a league with some means of a joint force to enforce those decrees, will be necessary.

The CHAIRMAN. Any further discussion?

Professor THEODORE P. ION. I should like to say a few words in regard to the neutrality of Belgium. Dr. Scott told us that England was not bound to go to war on account of the treaty. I think a statement of that kind — of course, my memory is not so fresh about it now — was made at one time in the House of Commons by Mr. Gladstone, that England was not bound to go to war, but that it was a matter of expediency — I think was the expression. However, I think there is another point in that matter. In the House of Lords, I think, a few years after the conclusion of the treaty guaranteeing the treaty of Luxemburg, the question came up, and Lord Derby made a speech and distinguished the guarantee of Luxemburg, which is a collective guarantee, and the guarantee of Belgium, which is a simple guarantee, and he said that England and the other Powers were not bound to assist Luxemburg unless all of them went together, whereas, in the case of Belgium, as the guarantee was simple, each of them was bound to assist Belgium. I think that was the distinction he made. As far as I remember, that distinction between the treaty of Luxemburg and the treaty of Belgium was criticized, and criticized very bitterly. Mr. Geffcken criticized Lord Derby bitterly for this distinction, and some of you may remember that, in the Blue Book published by Great Britain, Sir Edward Grey referred in one of his dispatches to this distinction, and I think he said that Great Britain was not bound to go to the assistance of Luxemburg, because, in fact, Germany violated both treaties, and therefore Great Britain made that distinction. I think he simply said in that dispatch that he approved or indorsed the opinion of Lord Derby or of Lord Clarendon. Any one who will read the speeches at that time will understand that was the distinction made by Lord Grey. I do not know upon what Dr. Scott bases his argument, unless he refers to that statement made by Mr. Gladstone in the House of Commons. Of course, Mr. Gladstone is a great authority on many questions, but in the last dispatch of Lord Grey that distinction was made. Great Britain in the present war never said she was not bound to go to the assistance of Belgium.

Mr. SOTERIOS NICHOLSON. Mr. Chairman, I think that the arguments made against and in favor of the League to Enforce Peace are both, in one sense, futile, for the reason that war will always be with men unless nations are brought together in a federation. A federation of nations is necessary for the future permanent peace. Such international government should have absolutely nothing to do with the internal affairs of any nation. The election or appointment of a legislative body to codify international law, the establishment of an international tribunal, and

the contribution of a federal army and navy to enforce the decrees of the court, are the first steps that we should endeavor to accomplish. Only in the same way that the United States protects the forty eight States can the international government protect the family of nations from future wars. For as Dr. Scott pointed out, the League to Enforce Peace can at any time break the treaty and be divided into alliances, like the belligerents on the two sides that are fighting to-day. It is, therefore, imperative that a world federation be formed, and the sooner we realize and advocate it, in every corner of the globe, the better it will be for the world.

Mr. SCOTT. I do not rise at all to continue the discussion, but merely to say that the authority for the remarks I made was not Mr. Gladstone, great as his authority is, but the treaty itself. There is no obligation placed on the nations, signatories of the treaty of 1870, to use force or to take forcible measures in order to preserve the neutrality of Belgium, but merely an obligation, as I see it, on each party to the treaty not to violate its terms. There was a collective guarantee in the case of Luxemburg. If confirmation were needed of these facts, I should simply submit the treaties of 1839 and those of 1870, respectively, between Great Britain, on the one hand, and Prussia and the North German Confederacy and France, on the other, by the terms of which each guaranteed that it would not violate the neutrality of Belgium, and if one of them did, that Great Britain would ally itself on the side of the other party at war, a fact which would not have been necessary if the treaty of 1839 had been I take it, one not merely recognizing a status, but a pledge to use force in case of a violation. However, one may be wrong and one may be right on that. The fact is, whether there was a treaty or whether there was not a treaty, the maintenance of neutrality was a matter of interest, because Belgium was nearer to Great Britain and in the other instance, it was not of such interest to Great Britain, because Serbia was a greater distance away. The vital interest involved in one case was not involved in the other, and hence the difference.

Professor ION. That very point came up for discussion in the House of Commons, and it was very thoroughly thrashed out. There have been many discussions about it, and it affords very interesting reading. It was distinctly and very clearly stated in the House of Commons that the second treaty did not at all have any reference to the first treaty; that the second was simply a repetition of the first treaty; that at the time, as Mr. Gladstone said, France or Germany or Prussia were trying to violate the neutrality of Belgium, and it was decided to make a second treaty.

Mr. ARTHUR G. HAYS. On one point, I am inclined to disagree with Dr. Scott, although I do so with great diffidence having studied under him for some time in the law school. I think, when it comes to a question of vital interest, nations will probably disregard treaties; but otherwise when nations enter into treaties, they ordinarily will observe them, sometimes even to the point of going to war, regardless of whether it is to their interest or not. I question whether this country is in the war because it regarded only its interests. The mere fact that there is a treaty is an important consideration.

I recall that when I was in England recently, the general opinion there expressed was that England was in the war—and this was, I think, the general understanding of fully ninety per cent of the people—wholly on account of the Belgian question. If that is the basis for the big recruiting campaign that has been going on in England, to bring people into the war, why is it not possible to arouse the interest of people generally to such an extent as to bring about the observance of treaties generally, even though apparently only other nations are concerned?

I remember asking a number of men at a dinner whether they thought England was actually at war because of the invasion of Belgium, or, to put it another way, if Belgium had been in another part of the world and England's interests were not vitally affected, would England have gone to war? They said, of course she would have gone to war; that a violation of a treaty was something that they could not stand for. I suggested one or two cases where I thought Great Britain had stood for that. I asked if Belgium had been Morocco, and there had been a similar treaty, if Great Britain would have gone to war. They all agreed that possibly they would not have gone to war except one man, who stated he was too much of an idealist to believe this. The recruiting posters displayed throughout England announce the fact that England is in this war on behalf of other people, on behalf of Belgium, and that stirred up great enthusiasm. If that is sufficient to make this strong appeal in that instance, it does seem to me that it is possible that people can be aroused to the point where they will live up to the obligations of their treaties, perhaps for other nations, even though their own vital interests are not affected.

Senator HENRI LAFONTAINE. Mr. Scott has said that there is no hope that a nation will be faithful to its treaties where its interest is not involved. He has stated that Great Britain went to war because its self-interest was involved.

Mr. SCOTT. I do not believe I stated that.



Senator LA FONTAINE. You said that Great Britain went to war only because its interest was involved.

A MEMBER. You will be quite accurate if you will omit the word "only."

Senator LA FONTAINE. He said a nation will not remain faithful to its treaties if it is not to its interest. He cites the case of Italy, but I disagree with him. It is not possible to establish such an organization as has been suggested, and have inside of it nations who will organize for war, if necessary, to enforce treaties which they have entered into.

Mr. Scott seems to think that the only disputes which will arise among nations are the kind of disputes which arise between individuals inside of a nation. But, we know that there are many different kinds of disputes which arise between nations which do not arise between individuals composing a nation, and I think, if the time arises where force is necessary, in order to urge compliance with the obligations of treaties, that the nations composing such a league should be prepared to enforce them by some means of constraint. I stand very strongly for that proposition.

Taking the history of the world, it is well known that we have changed our minds about many things. We have changed our minds about lawful institutions and lawful practices. Torture used to be a lawful process; it lasted during centuries, but it is now never used. Slavery was a legal institution in this very country, in the sixties, but it is no longer permitted. Why should the world not change its mind about war, as about dueling? Dueling was lawful, but dueling is not allowed any more in any of the nations of the world. If war in the future is considered as an unlawful process, then the use of the forces of the nations against a warlike people is as natural as to use the force of a nation against a criminal or a band of criminals, or to use force to quell disturbances, arrest burglars, etc.

Mr. SCOTT. The last speaker presents some very difficult questions for me to answer. For instance, he suggests that such and such may be the situation in the future. I am not the authorized spokesman of the future.

I want to call attention merely to one thing that I said, or that I thought I said, namely, that injustice, the breach of treaties and acts in violation of treaties, were not to be cured by force or to be stamped out of existence by collective force; that the hope of the world, as I see it, is not in leagues or combinations, but in a change of the standard of conduct of mankind, and, therefore, of nations through a gradual, long, and painful process of education, appealing to the intellect, appealing to the heart,

and not to the right arm which has ruled the world from the beginning to the present day, and which is still ruling it. I look to a reform and a change in the standard of conduct in the thought of men, in the creation of a public opinion which will insist upon better things. If that public opinion is not created, treaties are scraps of paper, judged by the history of the past — not that I want them to be scraps of paper now or in the future. My method and my panacea is education, and the raising of men, women, and nations to the highest standard, by bettering their spiritual nature and not by forcing them into leagues in order to redress wrongs.

Mr. S. K. HORNBECK. I have such great respect for the opinion of Dr. Scott that when I find myself not in agreement with his views, I hesitate to express myself on the points where I find that he and I differ. What I wish to say, I shall put in the form of interrogatories and be brief.

Dr. Scott has referred to the Supreme Court of the United States to-night, and he has referred much more extensively to it elsewhere. I should just like to put this question, and I hope we will get Dr. Scott on his feet again: Does Dr. Scott believe that the Supreme Court of the United States would have had that eminently successful history which it has had, had there not been organized, at the time it was put into existence, an administrative and legislative body with the three departments, Executive, Judiciary and Legislature, working together?

Dr. Scott has referred also to history as demonstrating the futility of reliance upon certain institutions. Might I ask Dr. Scott whether he will show us in history any place or any system in which law and order have been established without there being behind the law the sanction of some variety of force? Has it not been the history of bringing order out of chaos, among groups of people, that there has been the setting up of law, with force behind the law, to see that the law is observed, or if not observed, that the breakers of the law are punished?

Will Dr. Scott also, in referring again to the Supreme Court, tell us whether he believes any controversies between the States which have been adjudicated by the Supreme Court of the United States have been controversies of such a type that they would have led to war between the commonwealths between which these controversies existed? Has it not been true that the controversies which have been adjudicated by the Supreme Court have largely been controversies of the character which we have found settled by arbitration between the nations: matters, for instance, of boundary disputes and the use of waters, etc.?

I am a very great believer in the possibility of some sort of an organi-

ization wherein force behind the law will make the law effective, but I cannot conceive that mere instruction will cause all peoples to be law-abiding, just as I do not find, in the history of mankind, that instruction has caused all individuals within any certain group to be law-abiding. It seems to me that the process for which Dr. Scott argues would promise nothing more nor less than a system such as an advocate of anarchy will conceive of, wherein everybody will be law-abiding. You will have such law-abiding people only when you have people who are all disposed to obey laws prescribed for them, and when you meet that kind of people you need no laws and you can have an anarchy.

REPORT AND CONTINUANCE OF COMMITTEE ON CODIFICATION OF  
INTERNATIONAL LAW

Mr. CHARLES HENRY BUTLER. I want to make a motion which properly should be made to-morrow, but I should like to ask that it be not considered out of order at this time.

The CHAIRMAN. If there is no objection we will consider the motion as in order at this time. The Chair hears no objection.

Mr. BUTLER. On behalf of the Committee on the Codification of International Law, of which Mr. Root is chairman, and I have the honor to be vice-chairman, I should like to ask that the committee be allowed to report progress. The committee has not done a great deal of active work. We have not had an opportunity to get together, but the committee, through Mr. Lansing, has been codifying international law to some extent. With President Wilson's help, he has codified one little rule — YOU SHALL NOT COMMIT MURDER ON THE HIGH SEAS — and if you will give Mr. Wilson and Mr. Lansing a little more time, I think they will codify what the consequence of murder on the high seas shall be.

The CHAIRMAN. You have heard the motion. The committee reports progress and asks to be continued. If there is no objection, I will put that motion.

(The motion was thereupon put and unanimously carried.)

The CHAIRMAN. We will stand adjourned until ten o'clock to-morrow morning, at which time the subject will be "The Neutralization of States in the Scheme of International Organization."

(Whereupon, at 10.30 o'clock P.M., the Society adjourned to meet to-morrow morning, Saturday, April 28, 1917, at 10.00 o'clock.)